

Washington, D. C. 20505

174-0011
CLC # 78-0027

4 JAN 1979

R 78-3665

Honorable Edward P. Boland, Chairman
Permanent Select Committee on Intelligence
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

I am pleased to learn that your Committee will hold hearings in late January, 1979 on the use and protection of national security information in civil and criminal litigation. As you know, I testified before the Senate Select Committee on Intelligence about this subject in March of last year.

I firmly believe that your impending effort to address the problems surrounding the protection of legitimate national security secrets in the civil and criminal proceedings is both timely and necessary. As matters presently stand, the government's ability to protect its legitimate secrets is uncertain at best. As you know, that uncertainty exists in a variety of contexts, ranging from "leaks" by government employees to cases of espionage and the publication of books by former employees who had access to sensitive information. I am hopeful that your hearings will give sharper definition to these problems and will serve as the basis for sound policy and legislative judgments.

I am designating Mr. Anthony A. Lapham, my General Counsel, to appear as a witness at your hearings on my behalf.

Yours sincerely,

/s/ Stansfield Turner

STANSFIELD TURNER

3 January 1979

MEMCRANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence

FROM: Anthony A. Lapham
General Counsel

SUBJECT: HPSCI Hearings on the Protection and Use of
National Security Information in Criminal
and Civil Litigation

1. Action Requested: That you approve the recommendation in paragraph 5 and sign the letter to Chairman Boland at Tab D.

2. Background: Chairman Boland's letter to you of 22 December 1978 (Tab A) advises that the House Permanent Select Committee on Intelligence (HPSCI) will hold hearings in late January 1979 on the protection and use of national security information in criminal and civil litigation and asks that you designate witnesses to appear on your behalf to discuss problems the intelligence community has encountered in areas within the scope of the Committee's inquiry. Based on the Committee's statement of what it hopes to examine in the hearings (see "Prospectus," Tab B), the scope of the inquiry will be quite broad. While that scope includes some ground previously plowed by the SSCI, HPSCI intends to pick up where the Biden Subcommittee ended by examining, among other things, theories and specific proposals for amendment of the espionage laws and for making various unauthorized disclosures of classified information a crime, the legal theories for pre-publication review/restraint and post-publication remedies, the feasibility of special pre-trial procedures for national security cases, and, in closed session, why some actual espionage cases and damaging leaks were not investigated or prosecuted.

3. The above topics and other issues the HPSCI has identified will be a tall order for Congressman Morgan Murphy's Subcommittee on Legislation to tackle in just three and a half days of hearings. In addition to all of the above, HPSCI would like to hear from us on the recommendations contained in the Biden Subcommittee report. You have previously approved positions I suggested with respect to those recommendations (Tab C), so those positions should be the basis for our comments.

4. Staff Position: We have not yet had any discussion with the HPSCI staff on format and other aspects of the hearings. It is possible that we may need to obtain input from the Office of Security, the Special Security Center, and the DDO on some aspects, as for example the kinds of damage caused to intelligence interests by past leaks.

5. Recommendation: That you designate the undersigned as your principal witness for the hearings, with the understanding that I can call on other components and individuals to assist as needed, and that you sign the letter to Chairman Boland at Tab D.

[Redacted Signature Box]

STAT

Anthony A. Lapham

Attachments

APPROVED:

/s/ Stansfield Turner

Director of Central Intelligence

4 JAN 1979

Date

DISAPPROVED:

Director of Central Intelligence

Date

OGC 79-00075

OGC 79-00074
3 January 1979

MEMORANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence

FROM: Anthony A. Lapham
General Counsel

SUBJECT: HPSCI Hearings on the Protection and Use
of National Security Information in Criminal
and Civil Litigation (w/attached letter to
Boland to be signed by DCI (OGC 79-00075)

OGC:GWC:AAL:sin

Original - DCI

1 - DDCI

1 - ER via Ex Secty

1 - OLC

1 - OGC

